

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

JOSEPH W. VAN DAM,)
)
Plaintiff,)
)
v.) 1:22-cv-00271-GZS
)
MAINE STATE PRISON, et al.,)
)
Defendants)

RECOMMENDED DECISION

On August 31, 2022, Plaintiff filed a complaint (ECF No. 1), but did not pay the filing fee or file an application to proceed without prepayment of fees and costs. On September 2, 2022, the Court ordered Plaintiff to pay the \$350 filing fee or file a completed application to proceed without prepayment of fees and costs. (Order, ECF No. 2.)

Because Plaintiff failed to comply with the order, on October 5, 2022, the Court ordered Plaintiff to show cause as to why he had not complied with the Court's order. (Order, ECF No. 3.) In the order, the Court established October 19, 2022, as the date by which Plaintiff must show cause. (*Id.*) The Court advised Plaintiff that if he failed to show cause, the Court could dismiss the complaint. (*Id.*)

As Plaintiff has not responded to the Order to Show, I recommend the Court dismiss the matter.

DISCUSSION

"A district court, as part of its inherent power to manage its own docket, may dismiss a case sua sponte for any of the reasons prescribed in Fed. R. Civ. P. 41(b)." *Cintron-Lorenzo*

v. Dep't de Asumtos del Consumidor, 312 F.3d 522, 526 (1st Cir. 2002) (citing *Link v. Wabash R.R. Co.*, 370 U.S. 626, 629 – 31 (1962)). Federal Rule of Civil Procedure 41(b) authorizes the Court to dismiss an action for a party’s failure to prosecute and failure to comply with the Court’s orders. Here, Plaintiff has (a) failed to comply with the Court’s order directing him to pay the filing fee or file a completed application to proceed without prepayment of fees and costs, and (b) failed to show cause in accordance with the Court’s Order to Show Cause. Plaintiff thus has failed to comply with the Court’s orders and has otherwise failed to prosecute his claim.

Given Plaintiff’s failure to comply with the Court’s orders, and his failure otherwise to prosecute the matter, dismissal is warranted.

CONCLUSION

Based on the foregoing analysis, I recommend the Court dismiss Plaintiff’s complaint.

NOTICE

A party may file objections to those specified portions of a magistrate judge’s report or proposed findings or recommended decisions entered pursuant to 28 U.S.C. § 636(b)(1)(B) for which de novo review by the district court is sought, together with a supporting memorandum, within fourteen (14) days of being served with a copy thereof.

Failure to file a timely objection shall constitute a waiver of the right to de novo review by the district court and to appeal the district court’s order.

/s/ John C. Nivison
U.S. Magistrate Judge

Dated this 3rd day of November, 2022.